



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,651	11/06/2000	Wesley W. Whitmyer JR.	03000-P0003C	8608

24126 7590 12/19/2003

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

EXAMINER

LE, MIRANDA

ART UNIT	PAPER NUMBER
----------	--------------

2177

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,651

Applicant(s)

WHITMYER, WESLEY W.

Examiner

Miranda Le

Art Unit

2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/28/2003 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubacher et al. (US Patent No. 6,571,280), in view of Langford et al. (US Patent No. 6,574,733).

Art Unit: 2177

As per claim 1, Hubacher teaches “A system for onsite backup of internet-based data comprising: a central computer; a client computer” at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

“a communications link between said central computer and the Internet; communications link between said client computer and the Internet” at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

“software executing on said central computer for receiving a data backup request from said client computer” at col. 7, lines 12-22;

“software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer” at col. 6, lines 12-64.

Hubacher does not expressly teach “at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number”. However, Langford teaches this limitation at col. 5, lines 28-45.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hubacher with the teachings of Langford to include “at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number” in order to provide systems and methods that perform centralized secure backup of data.

As per claim 4, Hubacher teaches “A system for onsite backup of internet-based data comprising: a central computer; a client computer” at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

Art Unit: 2177

“a communications link between said central computer and the Internet; a communications link between said client computer and the Internet” at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

“software executing on said central computer for receiving commands from said client computer” at col. 7, lines 12-22;

“software executing on said central computer for generating a data backup request” at col. 7, lines 12-22;

“software executing on said central computer for transmitting said data backup request through the internet” at col. 6, lines 46-67;

“software executing on said central computer for receiving a reply to said data backup request” at col. 6, lines 46-67;

“software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer” at col. 6, lines 46-67.

Hubacher does not expressly teach the following limitations. However, Langford teaches:

“at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number” at col. 5, lines 28-45;

“software executing on said central computer for receiving data from said client computer” at col. 5, lines 28-45;

“software executing on said central computer for storing said received data in said database” at col. 5, lines 28-45;

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hubacher with the teachings of Langford to include “at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number; software executing on said central computer for receiving data from said client computer, software executing on said central computer for storing said received data in said database” in order to provide systems and methods that perform centralized secure backup of data.

As per claim 7, Hubacher teaches “A system for onsite backup of internet-based data comprising: a central computer; a client computer” at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

“a communications link between said central computer and the Internet; a communications link between said client computer and the Internet” at col. 3, lines 8-40, col. 4, lines 1-44, Fig. 1;

“software executing on said central computer for receiving commands from said client computer, for receiving data from said client computer, and for storing said data in said database” at col. 7, lines 12-22;

Hubacher does not expressly teach the following limitations. However, Langford teaches:

“at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number” at col. 5, lines 28-45;

“software executing on said central computer for receiving a data backup request and for receiving a data format conversion request” at col. 3, lines 9-27;

Art Unit: 2177

“software executing on said central computer for retrieving said data from said database and for converting said data to a format corresponding to said data format conversion request” at col. 3, lines 9-27;

“software executing on said central computer for encrypting said data backup” at col. 2, lines 39-65, col. 6, lines 12-39;

“software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer” at col. 4, lines 6-59, col. 6, lines 12-39;

“software executing on said client computer for decrypting said data backup” at col. 6, lines 12-39.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hubacher with the teachings of Langford to include all the limitations addressed above in order to provide systems and methods that perform centralized secure backup of data.

As to claims 2, 5, 8, Langford teaches “software executing on said client computer for storing said data backup in a location accessible to said client computer” at col. 5, lines 28-45, col. 6, lines 12-39.

As to claims 3, 6, 9, Hubacher teaches “software executing on said central computer for retrieving said data backup” at col. 6, lines 46-67.

Art Unit: 2177

Response to Arguments

4. Applicant's arguments concerning the '354 patent, the '330 patent and the '733 patent do not disclose "receiving a data backup request from said client computer and transmitting said data backup to said client computer" with respect to claims 1, 4, 7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Miranda Le whose telephone number is (703) 305-3203. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached on (703) 305-9790. The fax number to this Art Unit is (703) 872-9306. The TC 2100's Customer Service number is (703) 306-5631.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.



Miranda Le

December 1, 2003



GRETA ROBINSON
PRIMARY EXAMINER